Wilāyat al Maẓālim: Application of *Sīāsah Sharīa'h*
Meaning of *Wilāyat al Maẓālim*

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ABSTRACT:

Justice is the main goal of Islamic legal system. Hence Islam does not only depend upon the traditional judicial system for the administration of justice rather it has evolved certain untraditional way of for achieving this very important goal. Wilāyat al Maẓālim is one of the ways to achieve the goal of administration of justice in a non-traditional way. The present article is an effort to explain the concept, meaning, methodology of this important department of the government and to highlight the qualifications and jurisdiction of its in charge, and to distinguish it from other similar departments. Towards the end the legal status of the task of Wilāyat al Maẓālim has been elaborated.

It is a combination of two words; *wilāyah* which means department and *Maẓālim*. The latter is plural of *maẓlamah* (مظلمة), coming from the root word *ẓulm* (ظلم) i.e. to do injustice.

Technically it is the department of the government which aims at redressing public grievances against public servants which may arise because of maladministration, mismanagement or abuse of public authority.

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According to Al Māwardī, it is judicial investigation of wrongs or abuses and is concerned with leading those who have committed wrongs to just behavior by instilling fear in them and with dissuading litigants from undue obstinacy in their disputes by instilling a feeling of respect in them.[1]

According to Ibn Khaldūn it is a mixed job of executive dominance and justice of judiciary and it needs a strict approach and a great capability of putting the cruel in fear.[2]

The above explanation of the term *Wilāyat al Maẓālim* by the Muslim jurists show that the essence of this department of the government is dominance, hegemony and a capability to put the oppressor under the fear of law. It goes without saying the without such a characteristic the basic job of this department cannot be carried out because it is the powerful among the public servants who oppress others or usurp the rights of others.

It also appears from the statements of the jurists that this is not purely a judicial job nor is it purely an executive post. It is a combination of both types of authorities. This is the quality which makes it a part a manifestation of *Sīāsah Sharīa'h*. The ultimate goal of *Sīāsa'h Sharīa'h* is to promote the basic objectives of *Shari'ah* and it is through normal judiciary, *Wilāyat* al *Ḥisbah* and *Wilāyat al Maẓālim* that these objectives can be taken care of by the government.

The evidence of the dual nature of this job is that the in charge of *Wilāyat al Maẓālim* has got extensive powers including power of judges and those of executive branch of the government.[3]

Although it is a job which includes the authority of judges but it is more powerful than they are and has got a wider jurisdiction than judiciary.[4]

Most of the writers who mentioned this department of the government are of the opinion that it is more powerful than simple judicial courts but there is an opinion that it comes under judiciary and it resembles contemporary court of appeal where people can complain against the injustices of judges and other public officials.[5]

At an early stage in the development of Islamic institutions of the government *Maẓālim* came to denote the structure through which the temporal authorities took direct responsibility for dispensing justice.[6]

A contemporary scholar describes *Wilāyat al Maẓālim* as a judicial authority superior to that of a judge and *Muḥtasib* which looks into disputes which are out of the jurisdiction of judges. Thus it is a job that is a combination of the strength of the state and fairness of the judiciary although in reality it comes under judiciary. Its incharge is called *Ṣaḥib al Maẓālim* who is presented with complaints of injustice done by officials or member of royal family or judges.[7]

Another contemporary scholar describes it as the highest category of courts. According to his view it deals with appellate matters as well as with those that are beyond the jurisdiction of the Qāḍī. All "rights of State" are adjudicated by these courts. The procedure followed by these courts is not restricted by the strict requirements for the court of the *Qāḍī* as regards the number and qualifications of witness and the type of admissible evidence. The matters of evidence and procedure are left to the *ijtihād* of the Imām.[8]

This institution came into existence gradually through early phases of Islamic history. Its essence i.e. preventing cruelty and injustice and to call the oppressor to account was very much there from the very first day when Islamic state was founded in Madinah by the Prophet (peace be upon him) but it was developed as an institution with the passage of time and with the development of other political and administrative institutions with the Islamic state. Primarily it was to perform the duties which the judges failed to perform with respect to the implementation of the decisions. It also looked into the matters of evidence, punishments, circumstances of the offence, delay in deciding the case by judges, making the litigants reach to a mutual resolution of disputes and many other things pertinent of judicial system.[9]

Qualifications for *Wālī al Maẓālim*:

According to al-Māwardī the job of *Wālī al Maẓālim* is concerned with leading those who have committed wrongs to just behaviour by instilling fear in them and with dissuading litigants from undue obstinacy in their disputes by instilling a feeling of respect. Therefore the qualities demanded of the *Wālī al Maẓālim* is that he should be of imposing stature, that he ensures actions follows his words, that he commands great respect, is manifestly correct in his keeping within moral bounds, restrained in his appetites, and possessed of great scrupulousness[10], he needs to have the strength of the law-enforcement officers and the firmness of Qāẓis their judicial tasks and to combine the qualifications of the two types of person, so that by the majesty of his bearing he is able to execute any command with respect to both parties.[11]

It is not difficult to derive from the qualities stated for the *Wālī al Maẓālim* by al-Māwardī, that the qualifications required are a level above than what is required for a *Qādī* in Islamic law. It goes without saying that initially he must have the qualifications of a *Qādī*. Those qualifications are as follow[12]:

(a) Islam: To be a Muslim is pre-requisite for the post of *Qāḍi* as to be a judge is a public authority and non-Muslim cannot have any authority over Muslims. Allah says in *Qur'ān*.

- وَلَنْ يَجْعَلَ اللّٰهُ لِلْكَافِرِيْنَ عَلَى الْمُؤْمِنِيْنَ سَبِيْلاً

...and Allah will never let the non-believers to have authority over the faithful.[13]

Judicial job is basically the application of *Sharī'ah* rules and a non-believer has no knowledge of *Shari'ah*, so how can he implement it. However, according to the opinion of *Ḥanafis* a non-believer may be appointed *Qādī* for the non-believers because he can give evidence in their matter.

(b) Maturity and Sanity: *Qāḍī* must be *sui juris* because a minor and insane cannot comprehend the rules of *Shari'ah*. Only being sui juris is not enough, rather he should be a man of distinction having enough wisdom to distinguish between truth and fabrication. According to al Māwardī he should be, "Distinguishing rightly, having excellent insight in affairs, faraway from negligence and mistake, who

reaches through his wisdom to the solution of any confusion"

(c) Freedom: He should not be a slave. The Muslim jurists mentioned this condition in the old days but after the abolition of slavery according to the Vienna Convention 1815 and Geneva Agreement of 1956, endorsed by all the countries of the world now there is no need to mention this condition.

(d) Physical and Mental Health: He should be physically fit; that is his faculties of hearing, sight and speech should properly work so that rights can be proven before him and so that he can distinguish between the plaintiff and defendant and the one who confesses and the one who denies.[14]

(e) *'Adālah* (Religious Probity): It is a terminology used by the Muslim jurists for a characteristic in the character of a person who refrains from major sins and does not continue to commit minor sins. This is because he has to do justice so if he cannot be just in his relation with the Creator, how can he be expected to do justice in people's matters[15].

(f) Knowledge of the Rules of *Shari'ah*: He should have requisite knowledge of the rules of *Shari'ah* and should be learned enough for deciding disputes otherwise he will be among the cruel because he will be deciding without knowledge.

The above mentioned conditions are agreed upon among almost all the schools of thought in Islamic Fiqh. There are some other conditions which are disputed by some while some of the jurists consider them to be the basic conditions. Among those is the condition for *Qāḍī* to be a male and to be a *Mujtahid.* In short according to the opinion of Māliki, Shāfi and Ḥanbalī Schools of thought these two conditions are necessary for a *Qāḍī* while Imām Abū Ḥanifah does not consider *Ijtihād* to be a condition while he considers being male only in the matters where the evidence of women is not accepted like the cases of *Ḥudūd* and *Qiṣāṣ*, otherwise in the matters where the evidence of women is valid, the women can be appointed *Qāḍī* for such matters.[16]

So it may be concluded that the qualifications of *Wālī al Maẓālim* are same as a *Qāḍī* but in addition he should have an imposing stature, the strength of law-enforcing officer and firmness of *Qāḍī*, as described by al Māwardī.[17]

Jurisdiction and Powers of *Wālī al Maẓālim*:

Muslim jurists have identified ten areas of the jurisdiction of *Wālī al Maẓālim.* They are the following[18]:

(a) He investigates any abuse of power by rulers towards their subjects and brings them to account for the injustice of their actions; this is necessary part of investigation and is not dependent upon a petition from a plaintiff; thus he examines the behavior of officials and enquires after their state in order to strengthen their case if they are equitable, to restrain them if they go beyond the limits, and to replace them if they are unjust.

(b) Extortions made by agent-collectors when exacting the taxes on wealth and property- in this case he should have recourse to the laws of justice contains in the *Dīwāns* of the government. He should ensure that people are treated accordingly, and that the agents apply the directives accordingly, and that they investigate any overestimations, if these amounts have been paid to the treasury, they should be returned, and if the agents themselves have taken them , he makes them return the money to their owners.

(c) Keeping records of the treasury officials: As they occupy positions of trust; in this way the wealth of the Muslims may be correctly administered, both in its collection and it its distribution. Thus he has to investigate the nature of what has been entrusted to them, and if there is any excess or deficiency with respect to any incoming or outgoing funds, then he applies the corresponding laws and takes the necessary measures regarding all irregularities.[19]

(d) Claims of deficiency, delay or negligence towards those receiving provision: In these cases, he should refer back to his *Dīwān* in order to establish the obligation and justice of any payment, and to see whether it continues to be paid to them; he should examine if officials have made short payments in the past or have prevented payment; if the official in charge have taken the funds, he should recover

the sum from them, if not, he meets the loss from the treasury.

(e) Restitution of seized property.[20] It may be divided into two types:

(i) The first are things seized by the authorities that are those taken from its owner either out of greed or out of hostility towards its owner. As soon as the person responsible for putting a stop to abuses comes to learn of this during his investigation, he should order its restitution without waiting for anyone to lodge a complaint with him. If, however, he does not learn of anything in his investigation, his action is dependent on the owner lodging a complaint.[21]

(ii) The second kind of property seized by force is that taken by powerful individuals and who dispose of it with violence and coercion, as if they were the owners. Its restitution is dependent on a complaint on behalf of their true owners, but they may only be recovered from those who have seized them in one of four circumstances: **i**. either by way of an admission and confirmation by the one who took it; **ii**. On the basis of information possessed by the person responsible for setting right the abuse, in which case he may give judgment in accordance

with what he knows **iii**. By means of witnesses who testify to the improper seizure or to the victim's right to ownership; **iv**. The corroboration of accounts, which exclude all possibility of collusion by the witnesses: as witnesses may testify to the ownership of goods, the person responsible for setting aright the abuse has all the more cause to base his judgment on a concordance of statements.[22]

(f) The surveillance of Waqf institutions.[23] They are either of a general or of a particular kind:

(i) As for the general, he should begin by examining these waqfs even if there has been no complaint against them in order that he might have them run in the manner appropriate to them, and so that they are administered in accordance with the conditions stipulated by the waqf-donors.

(ii) As for *waqfs* of a particular kind, his inspection of them is dependent upon receipt of a complaint from interested parties who have differences of opinion- given that these waqfs have been set up for the benefit of specific parties. In the case of dispute, he should proceed according to the law before a judge in case of any establishment of rights;

(g) The execution of those judgments which the *Qāḍīs* have suspended because of their own weakness and incapacity in applying them to the party against whom judgment has been passed-because of the later's strength and power, or because of the superiority of his position and standing . As the person responsible for redressing the abuse is stronger and more capable of executing the order, he should carry out the judgment against the person in question either by taking away what he possesses or by coercing him into giving up what he owes.

(h) The inspection of whatever the *Muḥtasibs* have been unable to undertake in matters of public good; thus concerning the open practice of something illicit which they are too weak to prevent, transgressions committed on public highways which they cannot stop or the violation of the rights which they do not have the means to put an end to, he applies Allah's judgment, may He be Exalted, to them, and orders that they be forced to respect this judgment.[24]

(i) He sees that the public acts of worship are respected, like the Friday prayer, the Eīds, the Ḥajj, and the jihād, and that there is no deficiency or omission regarding any aspect of them, for the rights and obligation of Allah, the Exalted, have priority concerning their fulfillment and execution.

(j) Arbitration between two disputing parties and judgment between two litigants, although he is not to depart from the demands of the law and its consequences in his investigation, and he may not pronounce judgment between them by other than that by which judges and *Qāḍīs* judge. Many a time judgment in cases of abuse causes ambiguity for those responsible for their investigation, and so they in turn transgress in their judgments and go beyond the appropriate limits.[25]

The officer in charge of *Maẓālim*s had vast power and wide jurisdiction which made him superior to *Qāḍī*. He had power to intimidate a defendant if circumstances warranted. He could eliminate unnecessary evidence and short circuit the procedures for speedy justice. He could appoint arbitrators and administer oaths to witnesses if their veracity was doubtful and more than that, he could summon any person to provide him with relevant information, a power which was denied to the officers presiding over the regular courts.[26]

Wilāyat al Maẓālim and other Similar Institutions of the government:

There is no doubt in the fact that all the institutions of Islamic state aim at one primary goal i.e. promoting virtue and elimination evil. The three departments; *Wilāyat al Maẓālim*, judiciary and al *Ḥisbah*, all are particularly established for achieving this primary goal. Their goal is the same but every department has its own jurisdiction and therefore the experts draw lines of demarcation among them so that

no institution should interfere in the domain of the other and so that the business of the government is run in a smooth way. In this respect we will try to have a comparison of *Wilāyat al Maẓālim* both with Judiciary and Al *Ḥisbah*.[27]

Wiláyat al Mazalim and Judiciary[28]:

Wilāyat al Maẓālim and Judiciary are similar in the sense that both aim at the protection of rights and both take corrective measures if there is a loss of rights or where lack of responsibility or abuse of power occurs. Both the departments may take *suo moto* action as well as an action on the complaint of aggrieved party. However there are some distinctions between the two. Those distinctions are as follow:[29]

(a) *Wilāyat al Maẓālim* is based upon instilling fear into the cruel but in case of normal judiciary it is not done.

(b) The jurisdiction of *Wilāyat al Maẓālim* is much wider that of judiciary.

(c) Incharge of *Wilāyat al Maẓālim* may use fear factor in his investigation to reach to the truth. He can also decide a case on the basis of circumstantial evidence and determine right or wrong in a dispute. That is not allowed for a judge.

(d) The in charge *Wilāyat al Maẓālim* punishes those who openly commits injustice and reprimands with disciplinary action and censure those whose hostility is manifest while that is not allowed for judges.

(e) He can delay judgement when the matter involving the litigants is unresolved because of the ambiguity of their case and the uncertainty regarding their rights; this in order to make an examination of their details and circumstances. In short, a judge may not do this if one of the litigants asks for a definitive judgement, while incharge *Wilāyat al Maāẓlim* can do this.

(f) He can refer litigants to arbitration of trusted persons if they become troublesome in order that their differences may be resolved to their satisfaction. The judge, on the other hand, cannot do so unless agreed by both the parties.

(g) He may place litigants under surveillance if there are clear indications that their mutual denials are inconsistent, and can authorize the obligation of surety or bail with respect to matters where such guarantees are allowed in order to compel the litigants to a mutual sense of justice and to make them avoid all mutual denials and mutual denigration. This is not allowed for judges.[30]

(h) He may hear testimonies from good and honest persons in circumstances where judges would not be able to hear them without breaching established practices in the case of upright citizens.

(i) He may have the witnesses swear on oath when he is in doubt as to whether they are making their testimonies of

their own accord; he may also demand that there be amumber of them, so as to avoid any possibility of doubt and to remove any uncertainty he may feel. This is not, however, permitted for judges (who form their decision on the basis of two witnesses except in case of fornication.)

(j) Incharge *Wilāyat al Maẓālim* is allowed to initiate the summoning of the witnesses and to ask them what they know of the dispute between the litigants, whereas the custom amongst the judges is to charge the plaintiff with producing witnesses who he does not hear until after questioning the plaintiff.

***Wilāyat al Maẓālim* and *Al Ḥisbah:*[31]**

As for comparison between the institution of *al Ḥisbah* and *Wilāyat al Maẓālim*, there is a side of resemblance which joins them and a side of difference which separates them.[32]As for the resemblance which joins those, both have two aspects.

(a) Activity of both the institutions is based on intimidation applied with force of authority and with energetic severity;

(b) Activity of both the institutions may be concerned with matters of public interest and with seeing that manifest acts of wrong doing are denounced.

As for the distinction between the two, it also has two aspects. In case of *Wilāyat al Maẓālim* the investigation in cases of complaints is carried out where the judges fail to do so (because of the accused being

very powerful and influential person) whereas investigation in the realm of *al Ḥisbah* is carried out because the judges disdain to do so; for this reason the rank of incharge *Wilāyat al Maẓālim* is higher and that of the Muḥtasib is lower. Incharge *Wilāyat al Maẓālim* may make a signed order both to the judge and to the Muhtasib, while the judge cannot make such an order to the incharge *Wilāyat al Maẓālim* but he may issue such order to the Muḥtasib. Anyway the Muḥtasib can neither make such an order to the judge nor can he do so in case of incharge *Wilāyat al Maẓālim.*

(a) The person incharge of *Wilāyat al Maẓālim* may pronounce a judgement but that is not the domain of Muḥtasib.[33]

Legal Status of *Wilāyat al Maẓālim* in *Shari'ah:*

Wilāyat al Maẓālim means the institution of the government which works for the elimination of injustice/ cruelty (ظلم). This word has frequently been used by Qura'n and *Sunnah* in many different forms to highlight a particular behaviour which is condemned.

There are many sayings of the Prophet (peace be upon him) (peace be upon him) too which lay emphasis on the same theme.

For example in a *Ḥadīth-i-Qudsī*, it is narrated that Allah said

- يا عبادي إني حرمت الظلم على نفسي وجعلته بينكم محرماً، فلا تظالموا

O my servants, indeed I have prohibited injustice for Myself and have banned it among you too, so do not oppress each other.[34]

Moreover all the injunctions of *Qur'an* and *Sunnah* which make enjoining virtue and forbidding evil (*al amr bil ma'rūf wannahy 'an 'l munkar*) an obligation upon the *Ummah*, are indirectly emphasising the

obligation of establishing the institution of *Wilāyat al Maẓālim* because that is the best form of *Nahye 'an 'l Munkar* (forbidding evil) at the government level.

Same is the case with the injunctions which focus upon values like standing for Truth, *'Adl*, *Qist*, *Birr* etc. All those indirectly prove the obligation of grievance redress too.

Allah has commanded His Prophet (peace be upon him) to decide among people with justice so the same command is true for the believers too. The above mentioned many ***āyats*** and *aḥādith* prove that it is the primary duty of Islamic government to have a stable system of the administration of justice where *Amr bil ma'rūf wannahye 'an'l munkar* (enjoining virtue and forbidding evil) is ensured. This is not possible until it is done on government level and for that purpose there has to be a mechanism. That mechanism has been proven to be the department of grievance redresss or *Wilāyat al Maẓālim* and the department of *Ḥisbah.* Something that is the duty of the government or the *Ummah* is called in the language of Fiqh as communal obligation (*Farḍ kifāyah*). Thus the conclusion is that grievance redress is a communal obligation of the *Ummah.*

Conclusion:

To conclude this discussion, the main points are summed up in the following:

- *Wilāyat al Maẓālim* is the department of the government which aims at redressing public grievances against public servants which may arise because of maladministration, mismanagement or abuse of public authority. It is a mixed job

of executive dominance and justice of judiciary and it needs a strict approach and a great capability of putting the cruel in fear.

- The essence of the institution i.e. grievance redress has been there from the earliest period of the Messenger of Allah (peace be upon him) but it took its formal shape through different phases of Islamic history.

- All three institution of the Islamic state namely; *Wilāyat al Maẓālim*, Judiciary and *Ḥisbah* has a common goal of enjoining virtue and forbidding evil though the three have separate and distinguished jurisdiction.

- Injustice is *haram* or prohibited in the strictest terms according to the injunctions of *Qur'an* and *Sunnah* and it is the obligation of the *Ummah* to remove *Ḥarām* from the society. On the other hand the establishment of a society based on justice and fairness is an obligation of the *Ummah* collectively. So the conclusion is that the establishment of *Wilāyat al Maẓālim* is a communal obligation of the *Ummah*.

End Notes:

[1] Al Māwardī, *Al Aḥkām al Sulṭāniyyah*, , trans. Dr. Asadullah Yate, (London: Ta Ha Publications, 1996) p.58

[2] George Sordon, *Ikhtiār al fusūl fī al Aḥkām al Sulṭāniyyah wa 'ilm al Mujtama' min Muqaddimah ibn Khaldūn*, (Algeria: Al Maṭba'ah al Rasmiyyah, 1951)

[3] 'Abdul Karīm Zaydān, *Niẓām al Qaḍā fī al Sharī'ah al Islāmiyyah* (Baghdad: Matba'ah al 'āni, 1984) pp. 300-299

[4] Burhanuddīn Abī al Wafā Ibrāhīm bin al Imām Shamsuddīn Abī 'Abdullah Muḥammad Ibn Farḥūn al Ya'marī al Mālikī, *Tabṣirat al Ḥukkām fī Uṣūl al Aqḍiyyah wa al Manāhij al Aḥkām* (Beirut: Dār al Kutub al 'Illmiyyah 1301 A.H.) 1/20-21

[5] Jorjī Zaidān, *Tārīkh al Tamaddun al Islāmī*, (Egypt: Matba'ah al Hilāl, 1902) 1/187

[6] *Encyclopedia of Islam*, 6/933

[7] M. Salām Madkūr as quoted by Fārūq Nabhān, *Niẓāmul al Ḥukm fī al Islām*, p.667

[8] Imran A. Khan Nyazee, *Outlines of Islamic Jurisprudence*, op.cit. p.335

[9] See: Ibn Khaldūn, *Ikhtiār al fusūl fī al Aḥkām al Sulṭāniyyah wa 'ilm al Mujtama' min Muqaddimah ibn Khaldūn*, ed. George Sordon, op.cit. p. 58, and SulaimanAl Ṭaḥāwī, , *Al Sulṭāt al thalāth*, p. 447

[10] It means conformity to high standards of ethics or excellence and strict attention to minute details.

[11] Abū al Ḥasan 'Alī bin Muḥammad bin Ḥabīb al Māwardī, *al Aḥkām al-Sulṭāniyyah*, trns. Asadullah Yate, op.cit. p. 116

[12] Generally all the classical books of Islamic law contains "*Kitāb al Qaḍā*" i.e. the Chapter on Judiciary wherein among other things, the qualifications of *Qāḍīs* are discussed. See for these conditions: Abū Bakr Muḥammad bin Aḥmad bin Abī Sahl al Sarakhsī, *Al Mabsūṭ* (Karachi: Idarat al Qur'ān wa al 'Ulūm al Islāmiyyah, 1987) vol. 16, Abū Bakr Aḥmad ibn 'Umar al Shaybānī al Khaṣṣāf, *Kitāb Adab al Qāḍī*, (Cairo: Al Awqāf, 1904),

'Alāuddīn Abī Bakr bin Mas'ūd al Kāsānī al Ḥanafī, *Badā'i' al Ṣanā'i' fi Tartīb al Sharā'i'* (Beirut: Dār al Fikr, 1996) Vol.7, Ibn Farḥūn: *Tabṣirat al Ḥukkām,* op.cit. 1/17, Ibn al Qayyim al Jawziyyah, *I'lām al Muwaqqi'īn*, op.cit. 1/105, Al Māwardī, *al Aḥkām al Sulṭāniyyah*, op.cit. p. 62, Qādī Muḥammad al-Ḥusayn Abū Ya'lā al-Ḥanbalī, *al-Aḥkām al-Sultāniyyah* (Cairo, 1937) p. 55-56

[13] Al Qur'ān: 4: 141

[14]Qāḍī Muḥammad al-Ḥusayn Abū Ya'lā al-Ḥanbalī, *al-Aḥkām al-Sultāniyyah* (Cairo, 1937) p. 57 and Abū Bakr Muḥammad bin Aḥmad bin Abī Sahl al Sarakhsī, *Al Mabsūṭ* (Karachi: Idārat al Qur'ān wa al 'Ulūm al Islāmiyyah, 1987) 16/61,

[15]According to the Ḥanafī opinion a person lacking probity (i.e. sinful person) may be appointed as *Qādī*, as probity is a condition for perfection i.e. not a pre-requisite. So the ruler should not appoint such a person but if he does appoint one, his appointment is legal and his decisions shall be enforceable at law if they do not exceed the limits of Sharī'ah. Al Kāsānī, *Al Badā'i' wa al ṣanā'i'*, as quoted by Muḥammd Mustafā al Zuhylī, *Al Tanẓīm al Qaḍā'ī fi al Fiqh al Islāmī* (Damascus: Dār al Fikr, 1980) p.56

[16] Ibid. pp.57,58

[17]Abū al Ḥasan 'Alī bin Muḥammad bin Ḥabīb al Māwardī, *al Aḥkām al Sulṭāniyyah*, trns. Asadullah Yate, op.cit. p.116

[18] Ibid. pp.121-125

[19] Qādī Muḥammad al-Ḥusayn Abū Ya'lā al-Ḥanbalī, *al-Aḥkām al-Sultāniyyah* (Cairo, 1937) p. 60, Abū al Hasan 'Alī bin Muḥammad bin Ḥabīh al Māwardī, *al Aḥkām al Sulṭāniyyah*, trns. Asadullah Yate, op.cit. p.116

[20] For a comparative study of the issues in seizure of property see: kitāb al Ghaṣb in Abū Muḥammad Abdullah bin Ahmad bin Muhmmad bin Qudāmah al Miqdasī, *Al Mughnī*, ed. Abdullah bin Abdul Muḥsin al Turkī and Abdul Fattāḥ Muḥammad al Ḥilw (Cairo: Hijr li al Ṭib'ah wa al Nashr, 1992) 7/ 362-434

[21] Qāḍī Muḥammad al-Ḥusayn Abū Ya'lā al-Ḥanbalī, *al-Aḥkām al-Sultāniyyah* (Cairo, 1937) p. 61, Abu al Hasan 'Alī bin Muḥammad bin Ḥabīb al Māwardī, *al Aḥkām al Sulṭāniyyah*, trns. Asadullah Yate, op.cit. p.118

[22] Ibid. p.127

[23] For a comprehensive discussion on Waqf property in *Sharī'ah* see: Abū Muḥammad Abdullah bin Aḥmad bin Muḥammad bin Qudāmah al Miqdasī, *Al Mughnī* (Beirut: Ālam al Kutub, n.d) 5/600-648

[24] Qāḍī Muḥammad al-Ḥusayn Abū Ya'lā al-Ḥanbalī, *al-Aḥkām al-Sultāniyyah* (Cairo, 1937) p. 61, Abu al Hasan 'Alī bin Muḥammad bin Ḥabīb al Māwardī, *al Aḥkām al Sulṭāniyyah*, trns. Asadullah Yate, op.cit. p.118

[25] Ibid. p.119

[26] Dr. Liaqat Ali Khan Niazi, *The Institution of Muhtasib (Ombudsman)* (Lahor: Dival Singh Trust Library, 1994) p.163

[27] For the working of various administrative organs of the government according to Islamic principles see: 'Abdul Ḥay bin 'Abdul Kabīr al Kattānī, *Niẓām al Ḥukūmah al Nabawiyyah al Musammā al Tarātīb al Idāriyyah* (Cairo: Dār Iḥyā' al Turāth al Arabī n.d.) 2 volumes.

[28] A good discussion on the jurisdiction and other issues related to judiciary can be found in Alauddin al Samarqandī, *Tuḥfat al Fuqahā'* (Beirut: Dār al Kutub al 'Ilmiyyah, 1984) 3/ 369-374

[29] Al Māwardī, *Al Aḥkām al Sultāniyyah*, p. 126,127, trans. Dr. Asadullah Yate,
Abi Ya'lā, *Al Aḥkām al Sulṭāniyyah* p. 63,64

[30] Qāḍī Muḥammad al-Ḥusayn Abū Ya'lā al-Ḥanbalī, *Al-Aḥkām al-Sultāniyyah* (Cairo, 1937) p. 63

[31] *Al Ḥisbah* is the department of government which is charged with the task of enjoining virtue and forbidding evil in the society, particularly its work include supervision of market places to check any cheating or other illegal practices there. For a detailed discussion on the department of *al Ḥisbah* see: Taqiyyuddīn Abū al 'Abbās Aḥmad Ibn

Taymiyah, *Al Ḥisbah fī al Islām,* (Madinah: Al Jami'ah al Islāmiyyah, n.d), Muḥammad bin Aḥmad bin Bassām al Muḥtasib, *Nihāyat al Rutbah fī Ṭalab al Ḥisbah* ed. Ḥusamuddin Samrā'ī (Baghdād: Matba' al Ma'ārif, 1968) and *Al Aḥkām al Sulṭāniyyah* both by al Māwardī and Abū Ya'lā

[32] Al Māwardī, *Al Ahkām al Sultāniyyah*, p. 340, trans. Dr. Asadullah Yate, Abū Ya'lā, *Al Aḥkām al Sulṭāniyyah* p. 65

[33] Al Māwardī, *Al Ahkām al Sultāniyyah*, p. 340, trans. Dr. Asadullah Yate, Abū Y'lā, *Al Aḥkām al Sulṭāniyyah* p. 65

[34] *Ṣaḥīḥ Muslim*,Kitāb al birr wa al ṣilah wa adāb, Bāb: taḥrīm al ẓulm, Ḥadīth No 4674